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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Written statement submitted by the Inter-Parliamentary Union, a non-governmental organization in consultative status (category I)

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[18 March 1996]

1. The defence of the rights of members of parliament constitutes a priority for the Inter-Parliamentary Union (IPU), the world organization of national parliaments, which stems from its conviction that, in order for parliamentarians to be able to protect and promote human rights and fundamental freedoms in their respective countries, they must themselves be able to enjoy human rights.

2. In 1976, IPU instituted a procedure for the examination and treatment of communications concerning violations of the human rights of parliamentarians. A committee on the human rights of parliamentarians, made up of five members of parliament, was entrusted with investigating complaints. The Committee meets in camera four times a year. In a first stage, it examines the cases before it on a confidential basis. If no satisfactory settlement can be

found within a reasonable period of time, the Committee presents the two annual sessions of the Inter-Parliamentary Council - the Union's plenary governing body - a public report accompanied by recommendations for action.

3. In the latest public report to the IPU Council in October 1995, the Committee dealt with 18 cases concerning 78 members of parliament in the following countries: Albania, Bulgaria, Burundi, Cambodia, Colombia, Honduras, Indonesia, Maldives, Myanmar, Nigeria, Togo and Turkey. The Committee's main concerns in these cases are summarized below.

4. An increasing number of cases of which the Committee is seized concern parliamentarians who lose their mandate, are prosecuted, harassed, threatened and even assassinated, in the last resort for having exercised their fundamental right to freedom of speech, in itself a prerequisite for the functioning of representative democracy. A case in point is that of Mr. Sam Rainsy of Cambodia, elected in the June 1993 elections.

5. Mr. Rainsy, an outspoken critic of the Government, was expelled from his party, the Front uni national pour un Cambodge independant, neutre, pacifique et coopératif (FUNCIPEC), and for that reason expelled from parliament in June 1995. Mr. Sam Rainsy was subsequently prevented from establishing his own political party, the "Khmer Nation Party", which was declared illegal in December 1995. In its decision on the case, the Committee and the Council noted that no provision in Cambodian law provided for the dismissal of a member of parliament on account of his expulsion from a political party. They recognized that political figures could be excluded from their party for having expressed views deemed unacceptable by it, but could hardly accept, particularly as the Cambodian Constitution considered any imperative mandate to be null and void, that a member of parliament who was expelled from a party for that reason should lose his seat, in the last resort solely for having exercised the right to freedom of speech, guaranteed under the Cambodian Constitution and the International Covenant on Civil and Political Rights, to which Cambodia is a party. Furthermore, the Committee noted that the de facto result of the series of measures taken concerning Mr. Rainsy was that he found himself deprived of effective means of expressing his opinion and that the body of political opinion which he represented was unable to organize itself freely.

6. The Committee was also seized of the cases of members of the Buddhist Liberal Democratic Party (BLDP) in Cambodia, among them party founder Son Sann, who have been threatened with expulsion from parliament following the establishment of a rival faction of that party that the Government recognized as the legitimate BLDP. Moreover, two grenade attacks were perpetrated against participants at a party congress convened by Son Sann in October 1995, injuring 30 persons. The meeting itself had been banned by the Government and was dispersed by the police one hour after its opening. In this case as well, the Committee and the Council were led to recall that Cambodia, under its Constitution and international human rights norms, is bound to respect the right to freedom of assembly and association, which is central to multi-party democracy.

7. The right to freedom of speech is one of the main concerns of the Committee and the Council regarding the cases of several former Turkish parliamentarians of Kurdish origin of which it is seized. They fear that in

the final analysis, the members of parliament concerned, several of whom were sentenced to various prison terms for membership in and support to a terrorist organization and for making separatist statements, might have been prosecuted solely for having exercised their right to freedom of expression. The Committee and the Council hope to achieve progress towards a satisfactory settlement of these cases on the occasion of their forthcoming session, to be held in Istanbul (15-20 April 1996).

8. The problem of impunity is a major concern of the Union in several cases regarding parliamentarians from Burundi, Colombia, Honduras and Togo, who were either assassinated or severely injured following attempts on their lives. In all those cases, the investigations have so far produced no results, despite the existence of sometimes conclusive evidence. The Council and the Committee have consistently stressed that impunity constitutes a serious threat to democracy and human rights and that the State has a duty to undertake the necessary investigations to establish the truth and punish the culprits in application of its obligation to ensure the security and physical integrity of its citizens. They have also stressed that, in accordance with generally accepted standards of human rights, the families of the victims of such tragedies are in any case entitled to adequate material compensation.

9. The Council and the Committee have since 1991 been requesting clemency for Mr. Sukatno from Indonesia who, after a trial whose fairness has been contested, was sentenced to death in 1971 for involvement in the 1965 coup attempt. Mr. Sukatno is now aged 64 and is reported to be losing his memory. The Council deeply regretted that he was not among those released on the occasion of the fiftieth anniversary of national independence and deplored that considerations other than of a humanitarian nature seemed to have governed his exclusion from that amnesty.

10. In recent years, the Committee has noted a growing tendency for criminal charges to be brought against political opponents. This is among others, the case of a former member of parliament and Prime Minister of Albania, Fatos Nano, who, in April 1994, was sentenced to 12 years' imprisonment for having embezzled State funds in favour of third persons and for falsification of documents in connection with emergency aid delivered by Italy to Albania in 1991. (As a result of general amnesty decrees, the sentence has been reduced to 2 years and 10 months.) The Council has expressed serious doubts as to the rational nature of the judgement handed down on Mr. Nano and its concern that the trial may not have met internationally recognized standards for a fair trial. In December 1994, the Committee was able to carry out an on-site mission to Albania and recommended subsequently that Mr. Nano's trial be reviewed, all the more so since the charges brought against the person in favour of whom Mr. Nano was convicted of having embezzled State funds were dropped. However, this has not been the case to date. The Committee and the Council were led to note with concern that Mr. Nano's efforts under national law to have his case reviewed and his sentence reduced had been frustrated, as a result of a combination of measures having the effect of keeping him in prison.

11. As regards the case of the members of parliament-elect of the Union of Myanmar of which the Committee remains seized, it reaffirmed at its last session (January 1996) its dismay that the authorities continue to ignore the

outcome of the 1990 elections and insisted that the National Convention convened by the State Law and Order Restoration Council (SLORC) to draw up a new Constitution could in no way be regarded as a step towards the restoration of democracy, all the more so since the party that won the 1990 elections is no longer represented in that body. The Committee was further deeply concerned at the apparent contradiction between the information regarding prison conditions provided by the authorities and by the sources who report inhuman and degrading prison conditions, and in particular ill-treatment inflicted on Saw Naing Naing and Dr. Myint Aung, reportedly for their having provided the Special Rapporteur on Myanmar with information on prison conditions. The Committee insisted that an on-site mission of the Union would contribute to a satisfactory settlement of the cases before it and earnestly hoped that, in view of the new political will displayed by the authorities of Myanmar, they would now agree to such a visit.

12. The Committee regularly obtains the cooperation of the authorities of the countries concerned, including those whose parliaments are not members of the Union. In some cases, however, the authorities argue that the Union is interfering in what they consider internal affairs. This argument has been put forward by the national authorities of Cambodia. Similarly, in a case regarding two former parliamentarians from the Maldives, Mr. Ilyas Ibrahim, who was sentenced in absentia to 15 years and 6 months' banishment for having supposedly violated the Constitution by seeking election as President of the Maldives, and Mr. Mohammed Saleem, the authorities refuse to cooperate, arguing that they have no duty to respond to IPU's queries. As regards the cases of former elected members of the dissolved parliament of Nigeria who are reportedly facing continuous harassment and one of whom, Mr. Olawale Oshun, is reported to be held incommunicado without any charges, the Committee and the Council have to date obtained no substantive reply to their specific requests for information regarding the situation of the members of parliament in question.

13. In these cases, the Committee and the Council have consistently stressed that their legitimate concern to ensure respect for universally recognized human rights can in no way be construed as interference in the internal affairs of a State. Indeed, they have consistently affirmed that the defence of human rights is a duty which is incumbent upon the human community on the basis of the internationally recognized juridical principles set out in the Universal Declaration of Human Rights and applicable in all circumstances, in all countries and under any political system.